

[REDACTED]

[REDACTED]

[REDACTED]

JUL 25 1994

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code and have determined that you do not qualify for tax exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted indicates you are an Association formed on [REDACTED], to maintain, regulate and administer certain facilities owned in common by the Unit owners (the "Common Elements"); for the use, benefit and enjoyment of the owners and lawful users of the Common elements. In addition thereto, the Association is to provide for the management and maintenance of the Common elements and to provide for the collection of such revenue as necessary to effectuate the maintenance of these facilities and other such facilities as may be established for the Unit Owners. This Association does not contemplate pecuniary gain or profit to its members.

You are a membership organization, in which, membership is limited to the owners of a unit in the condominium.

Income is derived from membership dues.

Expenditures are attributable to ground maintenance, insurance, trash and snow removal, utilities, operational and repairs.

In operation, you will provide repairs and maintenance to the inside and outside of the property. These activities will entail installing long posts; resurfacing blacktop; tree and bush trimming and replacing sealcoat, roofs, gutters, decks and fences.

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[REDACTED]	[REDACTED]	[REDACTED]				
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	7/7/94	7/8/94	7/20/94				

[REDACTED]

Section 501(c)(4) of the Code provides for the recognition of civic leagues, social welfare organizations, or other organizations, not organized for profit, but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Federal Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated for the purpose of bringing about civic betterment and social improvements.

It has been held that where the primary economic benefit from an organization is limited to that organization's members, the organization is not operated exclusively for social welfare within the meaning of the statute. Consumer Farmer Milk Coop. v. Commissioner 186 F. 2d 68 (CA2; 1950), affirming 13 T.C. 150 (1949). New York State Association of Real Estate Boards Group Insurance Fund, 54 T.C. 1325, 1333 (1970).

Revenue Ruling 74-17, published in Cumulative Bulletin 1974-1, on page 130, concerns an association formed by unit owners of a condominium housing project which was operated to provide for the management, maintenance and care of the common areas of the project. Because the essential structure of a condominium association involves ownership in common by all unit owners of common areas and the maintenance and care of private property, it was held that the organization could not be recognized as tax exempt because the activities of the association constituted the provision of private benefit for the unit owners.

The rights, duties, and privileges of members of an association of unit owners in a condominium property derive from, and are established by, statutory and contractual provisions and are inextricably and compulsorily tied to the owners acquisition and enjoyment of their property interests in the condominium.

Condominium type ownership by its very nature necessarily entails ownership in common by all unit owners of common areas or elements supportive to the individual units in a structural and/or functional sense. Thus, any maintenance or care of such common areas or elements constitutes private benefit to the individual members as opposed to promoting the common good and general welfare of the people of the community.

It is held that the direct economic benefit from your activities is for the benefit of your members as individuals and not for the direct benefit of the community as a whole. Accordingly, you are not primarily engaged in promoting the common good and general welfare of the people of the community.

[REDACTED]

Your organization fails to meet the operational test of section 501(c)(4). Your activity of administering to the condominium, establishing the means and methods of collecting assessments, and arranging for the management of the condominium are not activities described in section 501(c)(4) of the Code.

Your attention is called to section 528 of the Internal Revenue Code which was added by the Tax Reform Act of 1976. This section provides that, in certain circumstances, a non-exempt homeowners' association may elect not to taxed on its "exempt function income" which includes membership dues, fees or assessments from owners of real property. The election is made by filing Form 1120H. If you determine that your organization qualifies under section 528, you may find it beneficial to make this election.

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

[REDACTED]
[REDACTED]
District Director

Enclosure: Publication 892